

14058 PL-
DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-197211

DATE: June 17, 1980

MATTER OF: Collins Construction and Management
Company

DIGEST:

Where Federal grant funds total only \$20,200, or less than 2 percent of total construction/redevelopment project price, GAO will not review complaint alleging improprieties in procurement by grantee since Federal funds are "insignificant."

[Protest]

Collins Construction and Management Company (Collins) has requested our review of the sale of a parcel of land and related award of a construction/redevelopment contract to the firm of Taylor, Thon, Thompson, and Peterson (Taylor) by the city of Kalispell, Montana. Collins alleges a number of improprieties in both the sale of the land and the award of the construction/redevelopment contract to Taylor.

The land involved had originally been purchased by the city of Kalispell with Federal funds provided by the Department of Housing and Urban Development under a Community Development Block grant. The land was subsequently offered for sale for private development of a senior citizen and handicapped person housing project. The city of Kalispell informed prospective offerors that the Farmers Home Administration, United States Department of Agriculture, had set aside \$1 million for a Rural Rental Housing loan to the successful offeror to be used to finance the construction project, and both Collins and Taylor filed applications with the Farmers Home Administration for such loans. The land sale was eventually made to Taylor for the price of \$79,800 contingent on Taylor building a \$1,200,000 senior citizen and handicapped person housing project.

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Both the Department of Housing and Urban Development and the Department of Agriculture argue that our Office is without jurisdiction to decide this complaint. Essentially, the Department of Housing and Urban Development argues that the amount of Federal funds involved under the block grant is too small to merit our review. Kalispell used \$100,000 in grant funds for acquisition and clearance of the land and other related functions. Upon sale of the land to Taylor, Kalispell received \$79,800 in sale proceeds. The sale proceeds are treated by the Department of Housing and Urban Development as income to the grantee available for other projects. Thus, the Department of Housing and Urban Development points out that the real Federal grant subsidy for the housing project only amounted to \$20,200. Since our Public Notice (40 Fed. Reg. 42406 (1975)) concerning review of contracts awarded by grantees states that we will not review those in which Federal funds in the project as a whole are "insignificant," the Department of Housing and Urban Development argues that we should not review this case. Both the Farmers Home Administration and the Department of Housing and Urban Development argue that, since the project construction will be financed by a Federal loan which will be repaid to the Government with interest by the developer, we should not review the award of the related construction/redevelopment contract to Taylor either.

As a general rule, our Office is without jurisdiction where the funds used to finance the contract are obtained from a Federal agency in the form of a loan which is to be repaid to the Federal agency. Central Construction, Inc., B-187699, February 23, 1977, 77-1 CPD 130; Chambers Builders Corporation, B-184932, October 8, 1975, 75-2 CPD 213. However, where the procurement financing is a combination of grant and loan funds, it is our policy initially to make a determination regarding the significance of the Federal grant funds in the project as a whole. If the amount is found to be significant, we will consider the complaint. See Niedermeyer-Martin Co., 59 Comp. Gen. 73 (1979), 79-2 CPD 314.

In deciding whether the amount of Federal grant funding is significant, we believe that both the overall amount of the grant funds and the percentage

of the project which is financed by Federal grant funds should be considered. See The Harris Corporation, B-194151, April 22, 1980, 80-1 CPD 282. In the present case, the net grant funding for this particular project is only \$20,200 after the sale price has been paid to Kalispell for the land, since under the Department of Housing and Urban Development guidelines the \$79,800 recovered as sale proceeds represents program income which is available to Kalispell for other Federally supported eligible community development projects. Moreover, the grant funds used in the project represent less than 2 percent of the total project price. In these circumstances, we conclude that the grant funds involved are "insignificant" and will not review the complaint on its merits.

The complaint is dismissed.

Harry R. Jan Cleva
for Milton J. Socolar
General Counsel